

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

UNITED STATES OF AMERICA)
)
) CR 108-060
)
)
JOHN FERNANDO SHEPPARD)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed. The Magistrate Judge recommended denying Defendant's motion to suppress concluding that the search warrant issued by the Richmond County Magistrate Judge, authorizing the search of 2021 3rd Avenue, in Augusta, Georgia was supported by probable cause. (Doc. no. 18). Alternatively, the Magistrate Judge found that even if probable cause to support the issuance of the warrant had not been established, the evidence discovered as a result of the resultant search would be admissible under the good-faith exception set forth in United States v. Leon, 468 U.S. 897 (1984). (Id.). The majority of Defendant's objections are without merit, as they merely re-assert the arguments that Defendant raised in his particularized motion to suppress; however, Defendant's objections regarding the "good faith exception" do merit further comment.

In his objections, Defendant argues for the first time, that "the exceptions to the Leon

good faith exception applicable to this case are that the magistrate was misled by information provided by law enforcement; and, that the issuing magistrate wholly abandoned his judicial role in signing off on a warrant supported by an affidavit that was so replete with facile, self serving representations that the warrant became a product offered to law enforcement simply because they asked for it." (Doc. no. 21, p. 4). Of note, Defendant has not provided any citation to the record or any affidavit in support of his new contention.

Defendant was specifically warned that any request for suppression, filed without an affidavit in support from Defendant and without any evidentiary support, would not satisfy his burden of coming forward with allegations that are sufficiently definite, specific, detailed, and nonconjectural to cause the Court to conclude that a substantial claim exists. (See doc. no. 13). Defendant did not attach an affidavit or any documentation to his objections in which he has raised new allegations regarding the "good faith exception." Thus, Defendant has not provided any material to support his version of events upon which he relies to make his newly formed argument that the Leon good faith exception should not apply to this case.

Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, the motion to suppress filed by Defendant Sheppard is **DENIED**. (Doc. no. 14).

SO ORDERED this 1st day of August, 2008, at Augusta, Georgia.


J. RANDAL HALL
UNITED STATES DISTRICT JUDGE